

REMARKS

In the Response to Non-Final Office Action mailed 29 July 2008, Applicants amended the claims to correct a translation error from French to English. The originally filed French application used the claim term "co-courant" which means "co-currently" or "same direction." However, in the PCT application, this term was incorrectly translated as "counter-currently." In addition, the originally filed claims in the present US national phase of this application also included the above translation error. When Applicants realized a translation error occurred, Applicants sought to amend the claims to correct this translation error. In particular, the originally filed claims were amended to describe a method including injecting an oxidizing gas into a reactor in a direction generally co-current with the direction of flow of the influent. Similar amendments were made to the apparatus claims describing a system configured to implement the above method. These amended claims are in contrast to the originally filed claims which described a counter flow.

In the recent Office communication dated 6 October 2008, the Patent Office states that the amended claims describing a co-current flow are directed to a species independent or distinct from the species originally claimed describing a counter flow. The Patent Office states that since Applicants' have received an action on the merits for the originally filed claims describing a counter flow, Applicants have "constructively elected [the originally filed claim set] by original presentation for prosecution on the merits." Moreover, the Patent Office states that if the amended claims were entered, they would be properly withdrawn, leaving no claims under consideration for action on the merits.

Accordingly to MPEP § 2163.07, "[w]here a U.S. application as originally filed was in a non-English language and an English translation thereof was subsequently submitted....if there is an error in the English translation, applicant may rely on the disclosure of the originally filed non-English language U.S. application to support correction of an error in the English translation

document." Accordingly, Applicants are within their rights to correct the translation errors set forth in the specification and claim terms. Moreover, this amendment corrects an obvious error. As shown in Fig. 1 of the application, one of ordinary skill in the art would clearly recognize that the oxidizing gas is injected in a co-current with the direction of flow of the influent. For example, note that oxidizing gas inlet 2 directs oxidizing gas into the reactor in the same direction as inlet 9 directs influent into the reactor. Accordingly, one of ordinary skill in the art would clearly recognize the existence of the error in the specification and claims and also recognize the appropriate correction.

Further, amending the claims from a counter flow to a co-current flow does not place a significant search burden on the Examiner. The originally filed claims and the amended claims share numerous characteristics. Notably, both sets of claims describe a system and method including injecting an oxidizing gas into a single chamber reactor having an immersed membrane filtration unit and a bed of catalyst material disposed in the reactor. Further, both sets of claims describe the bed of catalyst material promoting oxidation reaction or adsorption of organic material. Moreover, the Examiner must examine all the claims, whether or not distinct, if search and examination can be made without serious burden. See, MPEP § 803. Applicants submit that the search for the originally filed claims and the currently amended claims would overlap given the similarity between the claims.

In addition, the MPEP requires an Examiner to state the reasons relied upon for holding the inventions as being distinct. See, MPEP § 808.01. For example, the Examiner may show a serious burden by explanation of separate classification, separate status in the art, or a different field of search. See, MPEP § 808.02. However, the Office communication has provided no indication that there is an examination and search burden for these species. In particular, nothing in the Office communication indicates that different fields of search or queries would be required for the amended claims. Moreover there is no indication of why prior art applicable to

the amended claims would not be applicable to the originally filed claims, or what different non-prior art issues may arise between the amended and originally filed claims. With regard to the originally filed claims and the currently amended claims there is not a serious burden on the Examiner. The claims do not have a separate status in the art because all the claims relate to system and method for treating an influent containing organic matter in a single chamber having a membrane filtration unit and a bed of catalyst material disposed in the reactor.

In addition, Applicants never relied on the claim term co-current to distinguish the claimed invention over the cited prior art. Instead, Applicants attacked the references on other grounds. For instance, Applicants pointed out that none of the references teach or suggest recirculating oxidizing gas as required by independent claim 27. Likewise, Applicants argue that none of the references teach or suggest "an oxidizing gas recirculation loop extending exteriorly of the reactor for recirculating an oxidizing gas" as required by independent claim 50. In addition, Applicants' pointed out that none of the references teach or suggest "recirculating at least a portion of the non-permeated treated water stream from the reactor, through a recirculation line and back into the reactor" as required by independent claim 27. Likewise Applicants point out that none of the references teach or suggest "a recirculation line extending exteriorly of the reactor for directing a non-permeated treated water stream from the reactor, through the recirculation line and back into the reactor" as required by independent claim 50.

For at least the reasons detailed herein, the Patent Office should enter the current amendments and examine the currently amended claims.

Respectfully submitted,
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